

2003 Restructuring Activities by State

Updated as of July 1, 2003

Arizona - New

April 28, 2003, Docket No. E-00000A-02-0051, Electric Competition Advisory Group, Second Quarterly Report

The purpose of the Electric Competition Advisory Group is to facilitate communication and information sharing among Staff, stakeholders and market participants relating to events in the wholesale and retail marketplace, and to identify impediments to competition.

Since the last status report, the Arizona Corporation Commission's Utilities Division has identified organizations and individuals who wish to participate in the group and has requested feedback from the group's members regarding issues relating to the retail competition rules and impediments to retail competition. Thirteen ECGA participants have submitted comments to Staff regarding the retail electric competition rules. Staff is in the process of researching the issues raised in the comments and will be preparing a summary of the comments to distribute to the group for discussion at the first meeting. The first meeting of the ECAG will be scheduled at a later date. Questions about the group can be directed to Erinn Andreasen at (602) 542-0748.

California - New

NOTE: There is a great deal of turmoil going on in the California electric markets. The following items provide highlights of the latest events but are not intended to provide a comprehensive report.

As warmer weather approaches and the demand for power soars, a movement is emerging to dismantle California's once-innovative law that opened the energy market to competition and return the state to the more stable days of regulated power.

Late last month, California experienced its first statewide Stage 1 alert of the year, notifying consumers that electricity supplies were getting low. Though brief, the alert sparked flashbacks of 2000 and 2001 when blackouts were common and the word deregulation became synonymous with disaster.

California's Legislature is considering a bill that would end the state's seven-year experiment with electricity deregulation. The measure is aimed at averting a repeat of the crisis of three years ago, which pushed one utility into bankruptcy, a second one to the brink of bankruptcy and--with a \$40 billion price tag to fix the mess--contributed to the state's \$35 billion deficit.

"History speaks for itself as far as the need to reregulate is concerned," said Mindy Spatt, spokeswoman for the Utility Reform Network, a consumer organization that lobbied for the repeal legislation.

"Jeffrey Skilling [then an Enron Corp. executive] testified to the Legislature in 1995 how much more money the state would have by deregulating, money that could be used for health care and schools," Spatt said. "As we all well know, the only ones who ended up with more money were him and his company."

Government investigations have concluded that several energy companies, including the now bankrupt Enron, manipulated the California market by holding back power to drive up the prices by as much as 100 percent. California's electricity deregulation law was passed in 1996 at the urging of then-Gov. Pete Wilson, who cited threats that large manufacturing companies would abandon the state in the wake of comparatively high power rates.

The concept of deregulation, promoted by the Federal Energy Regulatory Commission, spread across the nation through the late 1990s and was adopted in about half the states. But the California fiasco has spurred many states to reconsider deregulation.

Seven states that were poised to implement deregulation plans around the time of the California debacle--including Oregon, Nevada, Arkansas and New Mexico--have delayed, scaled back or dropped their plans.

"It was a concern that we could not withstand the kind of disaster that was going on in California," said Sam Thompson, spokeswoman for New Mexico Atty. Gen. Patricia Madrid, who persuaded the Legislature in March to repeal the state's deregulation law.

"New Mexico is not a rich state," Thompson said. "Our residents do not need a lot of uncertainty in their electric bills."

The Illinois Commerce Commission has decided to hold off on one component of its deregulation law: Originally, the commission was set to lift a price cap in 2004, subjecting consumers to true market rates. But last year it agreed to keep rates frozen for another two years.

With the "volatility we're seeing in natural gas and the insanity in California, that looks like a good deal to have stable prices for another few years," said Martin Cohen, executive director of the Citizens Utility Board, a Chicago-based consumer organization that supports the law that restructured Illinois' electricity market.

"The regulators need the time to get this right," Cohen added. "None of the crucial issues [to prevent a dramatic rate increase] have been addressed yet."

California's law, intended to boost efficiency and lower costs to consumers by introducing competition, required utilities to sell their power-generating plants and to purchase energy on the spot market rather than through contracts that locked in often-high prices for several years.

Most of the states that followed California, though, opted for a less dramatic approach.

For instance, Illinois' 1997 deregulation law opened the power market to competition. But it keeps the long-term contract structure in place and does not require utilities to sell their power plants, though some have done so.

Officials in Illinois assert that with an abundance of power, generated largely by 11 nuclear power plants, the state is less vulnerable to the supply problems and price fluctuations that occurred in California.

"We have so many interconnected utilities in this part of the country," said Beth Bosch, spokeswoman for the Illinois Commerce Commission.

Critics of deregulation in California argue that the problems with the system are so serious that they don't want to consider fine-tuning the law. They want deregulation ended.

"Deregulation has done a great deal of damage to the state," said Carl Wood, who serves on the California Public Utilities Commission, a state agency that oversees privately owned electric companies.

The reregulation bill, which is awaiting action in a state Senate committee, would give the Public Utilities Commission more authority to set power rates based on costs and require utilities to find alternative power sources to reduce their reliance on the spot market. The bill, though, would not require the utilities to repurchase the power-generating plants they were forced to sell under the deregulation law.

Despite the problems in California, the Federal Energy Regulatory Commission and numerous states remain strong proponents of deregulation. Officials at the regulatory commission say the open-market approach has saved consumers \$13 billion.

"The problem is that people are looking at California's missteps as evidence for why we should not allow competition in the electricity market. [That argument] ignores the successful competitive markets around the country," said Bryan Lee, a spokesman for the regulatory commission.

Competition, Lee added, has boosted efficiency and worked well in several states, including Illinois, Pennsylvania, Maryland and Texas. "Utility customers are paying the lowest prices [ever] for electricity, on an inflation-adjusted basis," he added.

To avoid a future California-like crisis, the commission has adopted a policy that recommends states further reduce costs and improve efficiency by forming regional organizations that would coordinate power transmission.

The Midwest Independent Transmission System Operator, an agency based in Carmel, Ind., that manages the wholesale electric grid for Illinois and 14 other Midwest states, is seeking to unite with 12 other states throughout the Northeast and Southwest to save customers \$7 billion over 10 years.

"Everyone in the industry is learning from California's mistakes," said Mary Lynn Webster, spokeswoman for the agency. "I'm sure the state didn't set out to be a teaching tool. But it is serving to make all of us aware."

By V. Dion Haynes, Chicago Tribune -- June 12

Whatever its fate, the effort to re-regulate California's electricity market won't share one characteristic with the 1996 measure that deregulated the market: It won't win unanimous approval by the Legislature.

In fact, the proposal by state Sen. Joseph Dunn, D-Garden Grove, to formally repeal deregulation and return to tightly regulating utility companies has run into stiff opposition and spawned a competing measure in the Assembly.

As first conceived by Dunn, Senate Bill 888 would have slammed the door on so-called direct access, the private contracts signed by large users for cheaper electricity that critics say shifted costs to smaller users.

It also would fully restore the obligation for local utilities to procure or generate enough power to meet consumer needs. In other words, SB 888 would depart from the presumption under deregulation that market forces would fully meet customer demand and ensure that utilities were again responsible for keeping the lights on.

Supporters say the bill would block the practice of big power users shifting hundreds of millions in costs onto smaller customers and send an important message to the Federal Energy Regulatory Commission, which they argue has failed to protect ratepayers from price gouging.

"The rest of the country and the world are watching," said Michael Shames, executive director of the Utility Consumers' Action Network. "This bill is a scathing denunciation of deregulation and the FERC."

Shames and other consumer advocates note that direct access deals have cost smaller ratepayers more than \$600 million, because some big users including large businesses and some big educational systems avoid paying the crisis-related costs that the vast majority of electricity consumers continue to pay with each month's bill.

But opponents of SB 888 have already succeeded in winning a key concession: Under an amendment to the bill, the California Public Utilities Commission could keep direct access alive, if it can craft a plan that doesn't shift costs onto smaller ratepayers. A PUC plan would be subject to a second vote by the Legislature.

Beyond the issue of direct access, opponents of the Dunn bill say California has only recently restored stability to power markets and more rules changes will only scare off needed investment in new power plants.

"Corrective action has already been undertaken, and this bill will undermine that action," said Jan Smutny-Jones, executive director of the Independent Energy Producers Association.

Those actions include a patchwork of PUC orders and state laws, but none as comprehensive as SB 888, which is described by authors as a repeal of deregulation.

AB 428, the competing measure in the State Assembly sponsored by Keith Richman, R-Northridge, would establish rules for direct access, without a requirement for a second vote.

Daniel Pellissier, chief of staff for Richman, says the Legislature will never approve a measure without a direct access provision.

"With the heart out of Dunn's bill, all that's left is campaign rhetoric," he said.

Dunn says his bill still bars any form of direct access that involves cost shifting. He argues that a return to tight regulation of utilities is essential because deregulation has failed wherever it's been tried. Deregulation, he says, creates an inherent contradiction between the obligation of electricity suppliers to gain market advantage so they can raise prices which is best for their shareholders and the consumer desire for low electricity prices and a stable supply.

"If a chief executive has the ability to gain market power, you have the fiduciary responsibility to do it and use it for the benefit of the shareholders," said Dunn, who is also running for attorney general.

Dunn and supporters of his bill say the ability to gain market power is always near at hand because of electricity's special characteristics: It can't be stored, it's an essential commodity and it has relatively inelastic demand.

"Deregulation condemns us to a cat-and-mouse game with suppliers seeking market power," he said.

So Dunn also proposes to re-establish the obligation of local utilities to provide electricity and put those utilities firmly under the regulation of the PUC, which sets profits for utilities within a narrow spectrum.

SB 888 further seeks to bar holding companies from draining utilities of cash, leaving them fiscally unable to provide service. The bill does this by requiring utilities to keep serving customers as their top priority.

Dunn says this provision of the bill has sparked opposition from some large holding companies, including Sempra Energy, parent of San Diego Gas & Electric.

"Their vehement opposition to SB 888 is derived more from the holding company provision than it is from the best interest of their utility," he said.

A spokesman for Sempra Energy said the company prefers to have holding company issues resolved by the courts. Ralph Richardson, the Sempra spokesman, added that the company expects SB 888 to continue to undergo changes.

He noted that about 11,000 SDG&E customers from a total of more than 1 million have direct access deals. Those companies are responsible for about 19 percent of all electricity use in the region. Several big local users also oppose the bill, including Qualcomm and Callaway Golf Co.

Larry Dorman, a Callaway vice president, said a private electricity deal enabled the golf equipment manufacturer to manage its power costs during the state crisis of 2000 and 2001. Dorman said it diminished the burden on the state and SDG&E.

"SB 888 now threatens to change the law, which could cost the company a great deal of money and in effect, penalize us for taking a prudent course of action," Dorman said.

Qualcomm returned a call but did not respond to a request for comment.

The Foundation for Taxpayer and Consumer Rights, meanwhile, has withdrawn support for Dunn's bill because of recent changes. Doug Heller, a senior advocate with the foundation, said the direct access amendment opens the door to a bifurcated market, which in turn creates an opportunity to manipulate supply and prices.

"In the short term, the big users will get access to the cheapest power," said Heller. "When the state lets part of the market operate without regulation, we're stuck with depending on the valor and honesty of the energy companies.

That's a risk we took once and should never take again."

By Craig D. Rose, The San Diego Union-Tribune -- June 3

Gov. Gray Davis, in stronger language than he has used to date, said California's attempts to deregulate its electricity market should be abandoned and that tighter controls over the delivery and pricing of power are needed.

"We saw what a disaster deregulation was over the last two years," Davis told the editorial board of the San Francisco Chronicle. "And while in theory, scores of companies competing to sell you electricity might reduce your rates, in reality they all want to drive each other out of business and be the only suppliers in town, and then your rates will go up."

The Democratic governor, who rarely discusses pending legislation, stopped short of endorsing SB888 by Sen. Joseph Dunn, D-Santa Ana, the principal re-regulation bill in the Legislature.

Dunn's bill, now in the Appropriations Committee, is expected to emerge from the Senate this month but it faces a fierce political battle in the Assembly, where many lawmakers favor deregulation and at least two major energy regulation bills have been introduced.

"The governor is saying, 'SB888 is on the right track. Just get it to my desk,'" Dunn said Saturday. Dunn heads a Senate committee that conducted a two-year probe into power market manipulation.

"It will be a knock-down, drag-out struggle in the Assembly, but we are prepared for it," Dunn added.

Dunn's bill stems from California's 2000-'01 energy crisis, when power prices soared, utilities were driven toward insolvency and millions of customers experienced periodic blackouts. His measure would force utilities to serve customers at the lowest reasonable cost, tie power prices directly to production costs, guarantee schools the cheapest rates and repeal the 1996 deregulation law.

It would allow large industrial consumers to bypass their utilities and purchase power elsewhere -- but only if the Public Utilities Commission devises a plan to ensure that homeowners and small businesses don't wind up subsidizing the larger customers. Any PUC-approved plan also would have to protect Southern California Edison and other utilities from disruptions when large customers leave their grids, Dunn said.

By John Howard, The Orange County Register, Calif. -- June 2

California Gov. Gray Davis said for the first time he favors ditching the state's experiment with free-market electricity and returning to a more closely regulated system, the San Francisco Chronicle reported on Saturday.

"We saw what a disaster deregulation was over the last two years," Davis told the Chronicle in an interview on Friday.

"And while in theory scores of companies competing to sell you electricity might reduce your rates, in reality they all want to drive each other out of business and be the only suppliers in town, and then your rates will go up," he said.

Davis' comments come amid efforts already under way in the state assembly to end California's disastrous power deregulation efforts that pushed the state's largest utility into bankruptcy and caused blackouts across the electricity grid in the nation's most populous state.

Most energy analysts have said they believe the state's 2000-01 energy crisis was triggered by a flawed 1996 law to deregulate the power market.

That law, which went into effect in 1998, enjoyed widespread support from state policymakers, consumer advocates, and businesses.

Davis, a Democrat, said he hoped to sign legislation by the end of the year that would dramatically change California's energy policy, the Chronicle said.

Energy analysts have warned that reimposing regulations in the state power market might dissuade companies from building new power plants, leading to future electricity shortages.

Analysts say reregulating the state power market might prevent companies from making adequate returns that cover investment costs and seal an adequate profit.

News Provided By SAN FRANCISCO, May 31 (Reuters)

Hit by a double punch of unexpectedly high temperatures and surging power usage that defied old patterns, electric grid operators on Wednesday declared the first "stage-one" power emergency of 2003. The state Independent System Operator asked consumers to go easy on using heavy appliances during the alert, which started at 3 p.m. and was lifted at 6 p.m.

The emergency came as an unrelated transformer failure knocked out electricity in parts of downtown Sacramento and a neighborhood just north of downtown as the city hit triple-digit temperatures for the first time this year.

The statewide power alert passed quickly and rolling blackouts were never threatened. But the emergency did pose some troubling questions about energy use: Is conservation down from the days of the energy crisis? Is demand up because of uncharted growth in the state? Did the ISO miscalculate?

"We need to analyze this. I've got a whole slew of engineers going off to do some work tonight," said Jim McIntosh, director of grid operations for the ISO, which oversees much of the state's network of power plants and high-voltage lines.

The problem wasn't just that temperatures were high for late May, 5 to 7 degrees above what the ISO had expected in both the north and south state.

More troubling was that electricity usage was significantly higher than the amounts usually consumed at those temperatures, said McIntosh.

That could mean conservation has dropped off steeply, he said. It could mean more business growth than anyone realized has occurred, bringing with it more demand for electricity.

Or, it could mean nothing at all, if inaccurate numbers crept into any of the ISO's forecasting efforts -- a possibility McIntosh's staff will also be probing. He hoped to have a better assessment of the cause available today.

It was the first time since July that the ISO has declared an electricity emergency and only the third time since the state's energy crisis tapered off in mid-2001.

A stage-one alert occurs when operating reserves -- extra power that can be tapped virtually instantly to keep the grid stable if a power line or plant fails -- drop below 7 percent. The ISO can get access to some emergency supplies, and it calls on the public to use less electricity.

A more serious stage-two alert, when reserves fall below 5 percent, triggers shutdowns or higher costs for some utility customers, generally large businesses, that have signed up for special "interruptible" power rates.

Rolling blackouts are used to keep the grid from crashing in a stage three-alert, when reserves are projected to fall below 1.5 percent.

With much of the state warmer than normal, Sacramento reached a high of 101 degrees just before 3 p.m. Wednesday, according to the National Weather Service.

Along with the heat, some Sacramentans were faced with long delays during their evening commute, when a power outage disabled traffic signals in parts of downtown. About 7,000 homes and businesses lost power.

Firefighters rescued three people trapped in elevators in buildings on Q, K and 15th streets, said Sacramento Fire Department spokesman Capt. David Whitt.

The outage began about 4:20 p.m. when a transformer overheated at a Sacramento Municipal Utility District substation near 20th and C streets, cutting electricity to the Alkali Flat neighborhood and scattered areas of downtown that aren't served by underground lines.

By 7 p.m., about two-thirds of those affected had their electricity back, and utility crews hoped to have everyone's power restored by 8 p.m., according to SMUD spokesman Scott Thomas.

Transformer failures at different substations were responsible for two outages that hit Sacramento on Friday, cutting power to nearly 17,000 SMUD customers. In the most recent failure, Thomas said, oil inside the transformer became too hot, triggering an automatic shutdown to avoid greater damage.

Statewide, demand for power peaked at 39,577 megawatts just before 4 p.m. Wednesday -- about 4,500 megawatts more than the original forecast peak of 35,012, said ISO spokeswoman Stephanie McCorkle. That was well short of last year's record of more than 42,000 megawatts.

A megawatt is enough to serve up to 750 homes, although it often supplies far fewer households in hot regions like Sacramento.

Power plants that can produce several thousand megawatts were shut down Wednesday, either for maintenance work or because the lower usage forecast had made it seem unlikely they would be needed, McCorkle said.

McCorkle stressed that the ISO does not expect serious electricity shortages this summer, although it is still calling on consumers to conserve power when they can.

Conservation is expected to get a little easier in Sacramento today, with lower temperatures forecast.

"This likely will be the only triple-digit reading this week," said Laura Bevan of the National Weather Service. The normal high for this time of year is 85 for Sacramento.

HOT TIMES IN THE CITY

First triple-digit day (and temperature), in Sacramento:

2003: May 28 (101)

2002: May 30 (100)

2001: May 8 (100)

2000: May 22 (103)

1999: June 28 (102)

1998: July 12 (101)

Average May 28 temperature for Sacramento: 85

Record for May 28, set in 1984: 107

SOURCE: National Weather Service

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Connecticut - New

Reaction around Connecticut was mixed Wednesday to a major electric deregulation bill passed by the General Assembly that would allow rates to rise starting in 2004, when the current rates expire.

Advocates for the poor and elderly said the bill will hurt low income residents, but officials from Connecticut's business community said they were glad some rate protections were put in place now so consumers will not be at the whim of the open energy market Dec. 31.

"That really worried everybody, at least on the manufacturing side," said Jeffrey Gaudiosi, regulatory counsel for the Manufacturer's Alliance of Connecticut. "At least with this bill it takes away some of that uncertainty of what the prices are going to do."

Environmentalists also favored the bill, saying it would help stimulate interest in renewable energy by requiring a portion of the electricity serving Connecticut to come from sources such as wind or low-impact hydropower.

The bill, which Gov. John G. Rowland is expected to sign into law, lets rates rise by about 12 to 14 percent. Rates have been capped at 10 percent below 1996 levels since 2000, when the state restructured its energy market.

However, the legislation would enable state utility regulators to use existing charges paid by consumers to offset some of the increase. This would bring the rate hikes to between 4 percent and 6 percent, or about \$4 to \$7 more a month for the typical residential homeowner.

Customers would also pay another 8 percent in other increases stemming from a new wholesale electricity pricing system. These charges are already showing up on customer bills.

Robert Earley, staff attorney for the Connecticut Business and Industry Association, said it was not a good time for businesses to be paying more. But the bill protects ratepayers from paying even higher spot market energy prices, he said. He said small business can learn to use energy more efficiently until more choices in electric suppliers are available.

The measure is promising enough that Levco Tech, a Stamford-based company that stopped accepting new electric customers earlier this year, will probably start signing up new customers again, said Vice President Ed Levene.

Energy consultants said it was difficult to predict how much more electricity would cost in today's market. They agreed, however, that the costs of generating electricity have risen since the existing contracts were signed in 1999.

Paul Chernick, president of the consulting firm Resource Insight, said prices for the natural gas fueling many power plants today has about doubled since the original Connecticut electric contracts were signed.

"There's reason to believe prices will stay relatively high," he said.

(c) 2003, The Hartford Courant, Conn. Distributed by Knight Ridder/Tribune Business News. By Stacy Wong, The Hartford Courant, Conn. -- May 29

Maine - New

The Maine Public Utilities Commission is seeking proposals for standard offer service for medium and large commercial and industrial customers of Maine's two largest investor-owned electric utilities, Central Maine Power Company and Bangor Hydro-Electric Company. The annual retail electricity sale to these customers, taken together, is approximately 5.7 million MWh. About 47% of this load currently receives standard offer service.

Suppliers chosen through this RFP process will provide standard offer service beginning September 1, 2003. Initial bids are due at the Commission June 17, 2003. The Commission is requesting bids for terms of six months and one year. In Maine, standard offer suppliers provide service directly at retail, although the utility handles billing and collection on the standard offer supplier's behalf.

Concurrent with this solicitation for retail standard offer service, Central Maine Power Company and Bangor Hydro-Electric Company are seeking proposals for wholesale standard offer supply. The solicitations are being done concurrently to allow the Commission to evaluate all options simultaneously and sufficiently in advance of September 1. Suppliers can submit retail bids to the State and wholesale bids to CMP and BHE, as appropriate.

Under Maine's retail electric access rules, the Commission is responsible for ensuring that standard offer service is made available to all customers in the State. Maine's rules require that the Commission solicit suppliers to provide standard offer service through a competitive bid process. Currently, FPL Energy Power Marketing, Inc., provides standard offer service to CMP and BHE medium commercial and industrial customers, and Select Energy, Inc., provides it to CMP and BHE large commercial and industrial customers pursuant to a 6-month arrangement that expires August 31, 2003. The current contracts will be replaced by the arrangements resulting from the RFPs.

Standard offer service is provided to CMP and BHE residential and small commercial customers by Constellation Power Source Maine, LLC, through February 28, 2005.

The RFPs, which provide detailed information about Maine's standard offer and instructions on how to participate in the Commission's retail solicitation, are available at <http://www.maine.gov/mpuc/>. To request a copy of the RFPs by U.S. mail, please contact Laurel Peaslee (at laurel.peaslee@maine.gov or at 207-287-1386). For additional information, please contact Faith Huntington (at faith.huntington@maine.gov or 207-287-1373) or Mitch Tannenbaum (at 207-287-1391 or mitchell.tannenbaum@maine.gov). June 3, 2003.

Ohio – New

The Public Utilities Commission of Ohio (PUCO) today issued a report to the Ohio General Assembly that provides a biennial overview of Ohio's retail electric choice programs market activity. The report provides an update on the status of Ohio's competitive electric market using the official switching statistics and a summary of the key market development issues currently before the Commission.

Governor Bob Taft signed Senate Bill 3 (SB 3) on July 6, 1999, which ushered into Ohio a sweeping restructuring of the electric industry. The legislation changed the way consumers shop for electricity effective January 1, 2001. As a result, where suppliers are active, customers can choose the company that supplies their electric power.

"Of the twenty-four states in the United States that have adopted electric choice, Ohio's experience has been among the best," PUCO Chairman Alan R. Schriber stated. "While it is difficult to argue that electric choice has been pervasive anywhere, under the circumstances, Ohio's program has so far been a success."

Aggregation continues to be the success story of Ohio's electric choice program. More than 150 local governments passed ballot issues and received PUCO certification to band together and purchase electricity, in bulk, for their residents. Aggregation programs account for nearly 93 percent of residential customer switching, more than 88 percent of commercial customer switching, and nearly 20 percent of industrial customer switching.

Service territories not experiencing a high volume of supplier activity or customer switching are served by an electric distribution utility that offers their customers a low rate, making it difficult for competitors to enter the

market. The Commission, as mandated by SB 3, has imposed conditions upon the electric distribution utilities to provide incentives to potential shoppers.

"It is difficult to apologize for low rates," Chairman Schriber said. "The PUCO is vigilantly monitoring the behavior of all market participants in Ohio to detect non-price barriers to entry that could hinder competition."

The PUCO is vigilant in monitoring the electricity markets. Equipped with the latest technology – including a subscription to an electronic service that provides real-time information on the operating status of major electric generating stations supplying wholesale bulk power in the United States – the PUCO is monitoring local, regional, and national events that could impact the flow of electricity to customers in Ohio.

The PUCO has initiated an investigation into the financial condition of Ohio's public utilities to ensure that the unregulated activities of parent or affiliate companies do not negatively affect the financial condition or service quality of regulated companies serving Ohio.

"The PUCO is pledged to ensure that the financial integrity of the activities that we regulate is not undermined by the unregulated enterprises under the utilities' corporate umbrella," Chairman Schriber said. The development of Ohio's retail market depends upon decisions made by the Federal Energy Regulatory Commission (FERC) at the wholesale level. The PUCO regularly advocates ideas and support for FERC efforts on behalf of the wholesale market through comments filed in federal cases and rulemaking dockets. The PUCO is also contributing its expertise to the coordination of multi-state infrastructure improvements.

"There are many initiatives underway in Congress and at FERC that could have significant impact on the way energy markets evolve in Ohio," Chairman Schriber stated. "The Commissioners and staff have remained at the forefront of these debates in the many forums in which they take place."

The PUCO will continue to vigilantly monitor the development of Ohio's electric market and maintain a balanced approach to the restructuring of the electric industry. The objective is to promote and preserve competition in Ohio.

"The makings of a vital retail market are in place – a commitment to nurture the development of retail electric choice; statutes providing the PUCO with the administrative powers to correct the course if necessary; and a vote of confidence from Ohio's lawmakers," Chairman Schriber said. "We will continue to observe and analyze trends in Ohio, the surrounding region, and the nation to facilitate the development of a competitive electric market in Ohio."

Chairman Schriber will provide testimony to the House Public Utilities Committee regarding the PUCO biennial report on Wednesday, June 4 at 11 a.m. Chairman Schriber will provide similar testimony to the Senate Public Utilities Committee in mid- to late-June.

The official electric choice statistics are available in the PUCO report, [The Ohio Retail Electric Choice Programs Report of Market Activity 2001-2002](#), which is available on the PUCO Web site, www.PUCO.ohio.gov.

The Public Utilities Commission of Ohio (PUCO) issued a report to the Ohio General Assembly on May 28 updating it on the status of Ohio's competitive electric market based on official switching statistics and a summary of market developments currently facing the Commission.

The PUCO report declared that Community Choice aggregation "continues to be the success story of Ohio's electric choice program."

More than 150 local governments passed ballot issues and received PUCO certification to band together and purchase electricity, in bulk, for their residents. According to the report, Community Choice aggregation programs account for nearly 93 percent of residential customer switching, more than 88 percent of commercial customer switching, and nearly 20 percent of industrial customer switching.

Governor Bob Taft signed Senate Bill 3 (SB 3) on July 6, 1999, which ushered into Ohio a sweeping restructuring of the electric industry and included provisions allowing municipalities to aggregate their residents and businesses on an opt-out basis. Modeled on Massachusetts' 1997 Electric Restructuring Law, the dramatic successes of Community Choice in Ohio bolstered efforts to pass similar laws in California (2002) and New Jersey (2003).

The first major aggregation in Ohio and the largest public aggregation in the nation was achieved by the Northeast Ohio Public Energy Council, which has combined the purchasing power 600,000 customers, switching them from coal and nuclear power to a blend of natural gas and renewable energy sources offered by Green Mountain Energy, reportedly a 75% pollution reduction and a 33% greenhouse gas reduction in their electricity, with a guaranteed 6% savings in the energy portion of NOPEC customers' electric bills.

"Of the twenty-four states in the United States that have adopted electric choice, Ohio's experience has been among the best," PUCO Chairman Alan R. Schriber stated. "While it is difficult to argue that electric choice has been pervasive anywhere, under the circumstances, Ohio's program has so far been a success."

May 29 (News Release)

Pennsylvania - New

Lacking a sitting Democrat to head the Pennsylvania Public Utility Commission, Gov. Rendell has promoted Terrance J. Fitzpatrick, a Republican, to the chairman's position, a Rendell spokeswoman said yesterday.

Fitzpatrick replaces Glen Thomas, who was picked for the chairmanship by then-Gov. Tom Ridge in 2001. Thomas will remain a PUC commissioner.

The commission decides rates and rules for electric, natural gas and telephone utilities, as well as taxicab service.

Under state law, Rendell had to select a chairman within 120 days of taking office -- by Wednesday of this week at the latest. Fitzpatrick assumed the job Tuesday.

Before joining the commission in November 1999, Fitzpatrick practiced utility and environmental law in the Harrisburg office of Ryan, Russell, Ogden & Seltzer L.L.P. He also served as counsel to state Sen. David J. Brightbill and helped draft Pennsylvania's electric-deregulation bill.

"Gov. Rendell believes he'll do a fine job, based on his experience," Rendell spokeswoman Kate Philips said.

Fitzpatrick downplayed any increased leverage he might have as chairman of the five-member commission, saying, "You need three votes to get things done."

He said he does not shrink from pointing out any flaws in state policy, even if he helped write it.

"I'm inclined to say, 'There are good things here, but let me tell you about things that aren't as good,'" Fitzpatrick said. An example is the state's attempt to create competitive electricity markets, an effort he helped craft that has yielded mixed results.

Fitzpatrick will likely be replaced as chairman by a Democrat when his term expires next March. Rendell is still reviewing Democratic candidates for a vacancy that will open up when commissioner Aaron Wilson leaves. Wilson's term officially expired in March, but commissioners are permitted to stay temporarily if a successor is not immediately available.

Among the major issues now in front of the commission are establishing wholesale rates to encourage companies to compete against Verizon Communications Inc. in local telephone service, and resuscitating the state's moribund retail electricity competition.

Fitzpatrick, whose first job out of law school was with the commission, said his objective is to make the agency work better.

"We need to make decisions that are sometimes difficult [and] these decisions don't reduce themselves to sound bites," he said. "Sometimes we'll get attacked."

The Philadelphia Inquirer, May 23, 2003

Texas – New

Soaring natural gas prices have pushed Texas electricity companies into a precarious balancing act, forcing them to weigh the risks of hiking retail power prices against the threat of losing customers in the competitive market.

Companies such as TXU Corp. and Reliant Resources Inc., allowed to raise prices just twice a year under Texas' deregulated energy laws, are testing out the state's safeguards against ballooning natural gas costs for the first time since the market was opened to competition last year.

Texas has one of the country's most competitive electricity markets, but is heavily exposed to swings in the price of natural gas, which fires nearly 70 percent of the state's generating capacity.

While both TXU and Reliant said the existing price-hike mechanisms are able to stem the impact of natural gas costs that are up more than 60 percent from last year's average, analysts said risks remain.

"The mechanism that is in place does provide them a chance to recover natural gas costs, however there would presumably be lags in the recovery," said Argus Research analyst Jeff Gildersleeve, who has a "hold" rating on TXU and owns no shares.

"The other issue that has come up is if just one company applies for the increase, do they push their way out of the competitive picture," he said.

Only about 6 percent of Texas households had switched utilities by late 2002, although businesses have been much more willing to change. In some markets, nearly 40 percent of the commercial power demand has jumped to a new supplier.

Aside from the two biggest players, TXU and Reliant, other big energy retailers in Texas include privately-held TNP Enterprises' First Choice Power, Green Mountain Energy Company, which is part owned by BP Plc, Entergy Corp.'s Entergy Solutions, and Energy America, a unit of Centrica Plc. .

Dallas-based TXU, which has raised rates just once this year, said the way it runs its retail business has shifted dramatically, and staying competitive is its top priority.

"We must manage the risk associated with those rising fuel costs such that we can remain competitive in the marketplace," said Brad Jones, TXU's vice president of regulatory affairs. "That's the key concern."

Aside from applying to raise rates, Jones said TXU has found other methods to help offset the higher gas costs, including buying long-term contracts for both power and gas. The company's retail unit can also buy power from generators selling at lower prices than TXU's own generation unit.

Reliant Resources, a TXU rival, has approached the rise in natural gas prices differently and has already applied to raise rates twice this year. The most recent assumed a \$6.10 per mmBtu natural gas price, well above Thursday's July contract price of \$5.35.

According to Blaylock & Partners analyst Lasan Johong, Houston-based Reliant has managed its risk well for this year, recently locking in its unhedged natural gas costs during a brief dip in prices.

For its part, Reliant said its biggest concern now is what will happen if gas prices come down, allowing rivals to undercut its rates without worrying about their costs.

"The risk to Reliant now, if you get dramatically lower prices between now and the end of the year or into next year, then that just increases the headroom for the competition to offer lower prices to customers," said Brian Landrum, president of Reliant Energy Retail Services, adding that the company could start losing larger numbers of customers until it is able to lower rates.

NEW YORK, June 26 (Reuters)

Cap Rock Energy Corp.'s vice president says he wasn't surprised Gov. Rick Perry signed legislation stripping the publicly traded electric company of unique status that made it exempt from rate regulation.

The governor signed SB 1280 into law Sunday. It takes effect Sept. 1.

The action will remove wording from legislation passed during the 2001 Legislature that defined Cap Rock Energy, a publicly traded electric transmission and distribution company, as a successor to a rural co-op.

The status, in essence, allowed Cap Rock to raise its rates without the approval of the Public Utilities Commission.

Even in the deregulated market, the PUC regulates the rates of investor-owned electric transmission and distribution companies. It has no oversight of retail service providers.

"Essentially, we're not surprised that it became law, either by his signing or passage of time," said Ronnie Lyon, Cap Rock vice president and general counsel. "We don't feel like the bill was good for our customers, but we don't expect it to have a significant impact on the company."

Based in Midland, Cap Rock Energy used to be Cap Rock Rural Electric Co-operative. Cap Rock Electric was a nonprofit, member-owned utility formed by a group of Permian Basin farmers in 1939.

In late 1998, Cap Rock Electric converted to a publicly traded company by proxy. Cap Rock Chief Executive Officer David Pruitt has stated in the company's prospectuses that taking the utility public was necessary to raise investment capital, something that the co-op couldn't do previously.

In the 1999 legislative session, Sen. Troy Fraser, R-Horseshoe Bay, sponsored an amendment giving Cap Rock its "successor to a co-op" status, something no other utility in Texas enjoyed then or now. Cap Rock officials said the special status would give the utility time to adjust to and enter the deregulated electric utility market. Then-Rep. Tom Craddick of Midland helped fine-tune the wording of Fraser's original amendment, even as his daughter was a paid lobbyist for Cap Rock.

Last March, though, Cap Rock's irrigation customers began publicly questioning their rates. One Gardendale hay farmer claimed his rates increased 50 percent in 16 months beginning in December 2001. Cap Rock has denied raising irrigators' rates, instead labeling them as "revenue neutral" rate adjustments.

Backed by two Austin-based agricultural interest groups, the farmers intervened in Cap Rock's August 2001 request to transfer the co-op's operating license to the corporation.

Last winter, Fraser, who represents residents of several counties in which Cap Rock operates, said the first amendment was a mistake. It allowed the utility to operate in a regulatory "no man's land," he said. Fraser's office did not return a call seeking comment Monday afternoon.

The PUC twice last year failed to rule on the transfer request. Instead the commission turned to Attorney General Greg Abbott for an opinion on the legality of Cap Rock's conversion.

On Monday, PUC staff sent a letter to Abbott's office asking that its request be withdrawn, said PUC spokesman Terry Hadley, adding that Perry's action makes the conversion moot, he said.

"What it boils down to is Cap Rock will be treated like any other investor-owned utility," Hadley said. "The main thing being that it will have a rate that will be regulated, a retail rate that will be regulated.

Hadley said the PUC will establish a time frame for the regulation of Cap Rock, which will also require the utility to separate its electric delivery business from its retail business.

There's no reason to believe that process, known as "unbundling," should affect Cap Rock's service, he said.

Hadley said the PUC will order the transfer request that had been pending to be dropped at a future meeting, although he didn't know when that would be.

He said Cap Rock's unbundled transmission and distribution company would receive a new operating license from the PUC.

Currently, Cap Rock serves about 17,000 customers in West and Central Texas.

By Julie Breau, Odessa American, Texas -- June 24

Entergy Corp. today will ask the state Public Utility Commission to set a fixed date to launch retail competition in the electric utility's Texas service area and to approve a set of rules to create the competitive field.

The commission in April turned down a request by Entergy to approve its proposal to begin competition by Jan. 1, 2004, because it isn't likely an open and accessible interstate transmission grid would be available for retail competitors.

Most of Texas is covered by a transmission grid that is completely within the state's boundaries. That self-contained grid makes it possible for an independent operator, the Electric Reliability Council of Texas, to guarantee access to retail competitors to provide electricity from any generating source acquired by the competing retail providers.

The keystone of competition is the ability of a retail provider to find the least expensively generated electricity from a power generator, buy the power wholesale, and send it through the grid to its customers.

The state's electric retail success depends on competitors coming into a territory where an incumbent investor-owned utility held a state-approved monopoly.

Where the state Public Utility Commission once set rates that guaranteed the local electric utility a certain return on its investment, the retail competitors would attract customers based on the market.

The regional transmission grid makes it possible. However, there isn't such an independent grid available to retail competitors that crosses all of the state lines that Entergy services, which excluded the utility's service area from the launch of retail competition a couple of years ago.

Efforts at the federal level have stalled in Congress as well as in the Federal Energy Regulatory Commission.

So Entergy asked the state Public Utility Commission to designate a certain date to allow for the start of retail competition for Southeast Texas, citing its development of an interim solution to the problem.

That interim solution is to allow Entergy to act as the authority for open access to regional electric transmission until such time as the Federal Energy Regulatory Authority is equipped to supervise an interstate transmission authority.

In a filing sent to the Public Utility Commission, Entergy contended that its proposed Entergy Transmission Organization would be separate from any other Entergy organization and affiliate responsible for generation and load in the Entergy service area.

The transmission organization would maintain confidentiality of all the information that is described in the open-market protocols also under consideration by the Public Utility Commission for creating a market-based retail electric environment.

If the Public Utility Commission accepted the Entergy proposal, it also would have to create a provider of last resort for residential and commercial customers not served by a competing provider.

The commission's agenda for today placed the Entergy item toward the bottom, and commissioners are able to discuss the matter and act on it.

However, a commission spokesman said the likelihood is the PUC will receive testimony, and reserve discussion and action for the next public meeting on July 10.

By Dan Wallach, The Beaumont Enterprise, Texas -- June 18

Almost 11 percent of TXU Corp.'s residential electricity customers have switched to alternate providers since competition took effect last year, giving North Texas the highest switching level in the state, according to figures released Thursday.

The latest update from the Texas Public Utility Commission shows the early effects of TXU's March rate increase on its local customer base.

Figures for other areas of the state also showed increased switching to competitive retailers as incumbent providers sought to raise bills to offset higher prices for natural gas used to generate electricity.

"The rate of growth, I think, is very healthy," PUC Chairman Rebecca Klein told financial analysts in a conference call, where she presented the latest figures. "I expect that over the course of time, these trends will continue to uptick."

Ten providers compete with TXU in North Texas for electricity customers, according to PowerToChoose.org, offering rates as much as 12 percent below TXU's rates. Those companies can change their rates with a 45-day notice to customers; incumbents can only change rates in their original service territory twice a year with PUC approval.

About 7 percent of TXU's customers had switched by the end of last year. The Dallas-based utility filed for its rate increase in January, and the request was approved in March.

Retailers have said that they expect to see increased switching this summer as seasonal electricity consumption goes up.

"TXU's service territory has certainly been targeted by many of the competitors," TXU spokesman Chris Schein said. "But at the same time, many of these competitors are discovering that TXU Energy customers have high expectations of them. Last year alone, we saw about 10 percent of the customers switch back to TXU after trying one of the competitors."

The company has been offsetting most of its customer losses in its original territory by operating as a competitive retailer in other parts of the state. It's the largest competitive provider in Houston, for instance, where Reliant Energy is the incumbent electric company.

About 10.5 percent of Reliant's original customers are being served by competing providers, compared to 10.8 percent of TXU's original customers, according to the PUC figures, which were based on June 2 data from the Electric Reliability Council of Texas, the state grid operator. Commercial and industrial customers have switched at a higher rate.

Some critics of deregulation have cited sharp increases in consumer complaints as one reason that more customers have not switched. Texas electricity customers file about 1,000 to 1,500 new complaints with the PUC each month about electricity service, said Tim Morstad, a policy analyst at Consumers Union in Austin. That's up fivefold or more in some months compared to the pre-competition era.

"Customer confidence is key in the deregulated market," he said.

By Sudeep Reddy, The Dallas Morning News -- June 13

Sources: This table has been compiled from a variety of sources including Public Utilities Fortnightly and state commission and legislative Internet websites. This table was compiled by Laura Cvengros.

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